

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN**FILED - GR**

June 1, 2020 11:18 AM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY:JMW SCANNED BY: *hwa 6/1/2020***1:20-cv-484**

Janet T. Neff - U.S. District Judge

Ray Kent - U.S. Magistrate Judge

Brian Keith Schwab #1814167703 Ball Ave NEGrand Rapids, MI 49503

(Enter above the full names of all plaintiffs, including prisoner number, in this action.)

v. Corizon Health, DR. YACOB, Joanne Sheerwood, DR  
Flentje, Michelle Young

(Enter above the full name of the defendant or defendants in this action.)

**COMPLAINT****I. Previous Lawsuits**

**CAUTION: The Prison Litigation Reform Act has resulted in substantial changes in the ability of incarcerated individuals to initiate lawsuits in this and other federal courts without prepayment of the civil action filing fee. Accurate and complete responses are required concerning your litigation history. Generally, a plaintiff's failure to accurately and completely answer the questions set forth below will result in denial of the privilege of proceeding *in forma pauperis* and require you to pay the entire \$400.00 filing fee regardless of whether your complaint is dismissed.**

- A. Have you ever filed a lawsuit while incarcerated or detained in any prison or jail facility? Yes ☒ No ☐
- B. If your answer to question A was yes, for each lawsuit you have filed you must answer questions 1 through 5 below. Attach additional sheets as necessary to answer questions 1 through 5 below with regard to each lawsuit.
1. Identify the court in which the lawsuit was filed. If it was a state court, identify the county in which the suit was filed. If the lawsuit was filed in federal court, identify the district within which the lawsuit was filed.  
U.S. District Court Western District Southern Division
  2. Is the action still pending? Yes ☒ No ☐
    - a. If your answer was no, state precisely how the action was resolved: \_\_\_\_\_
  3. Did you appeal the decision? Yes ☐ No ☐
  4. Is the appeal still pending? Yes ☐ No ☐
    - a. If not pending, what was the decision on appeal? \_\_\_\_\_
  5. Was the previous lawsuit based upon the same or similar facts asserted in this lawsuit? Yes ☐ No ☒

If so, explain: \_\_\_\_\_

**II. Place of Present Confinement** Kent County Correctional Facility, 703 Ball Ave NE Grand Rapids MI 49503

If the place of present confinement is not the place you were confined when the occurrence that is subject of instant lawsuit arose, also list the place you were confined:

\_\_\_\_\_

## III. Parties

## A. Plaintiff(s)

Place your name in the first blank and your present address in the second blank. Provide the same information for any additional plaintiffs. Attach extra sheets as necessary.

Name of Plaintiff Brian Schuch

Address 703 Ball Ave NE Grand Rapids MI 49503

## B. Defendant(s)

Complete the information requested below for each defendant in this action, including whether you are suing each defendant in an official and/or personal capacity. If there are more than four defendants, provide the same information for each additional defendant. Attach extra sheets as necessary.

Name of Defendant #1 Corizon Health

Position or Title Medical Provider

Place of Employment Kent County Jail

Address 703 Ball Ave NE Grand Rapids MI 49503

Official and/or personal capacity? Official

Name of Defendant #2 Dr. Jacob

Position or Title Doctor

Place of Employment Kent County Jail

Address 703 Ball Ave NE Grand Rapids MI 49503

Official and/or personal capacity? Both

Name of Defendant #3 Joanne Sheerwood

Position or Title Nurse Practitioner

Place of Employment Kent County Jail

Address 703 Ball Ave NE Grand Rapids MI 49503

Official and/or personal capacity? Both

Name of Defendant #4 Dr. Plentje

Position or Title Psychiatrist

Place of Employment Kent County Jail

Address 703 Ball Ave NE Grand Rapids MI 49503

Official and/or personal capacity? Both

Name of Defendant #5 Michelle Young

Position or Title Sheriff

Place of Employment Kent County

Address 701 Ball Ave NE Grand Rapids MI 49503

Official and/or personal capacity? Both

#### IV. Statement of Claim

State here the facts of your case. Describe how each defendant is personally involved. Include also the names of other persons involved, dates and places. **Do not give any legal arguments or cite any cases or statutes.** If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets if necessary.

*See Attached*



**V. Relief**

State briefly and precisely what you want the court to do for you.

See attached

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May 16 2020  
Date

  
Signature of Plaintiff

**NOTICE TO PLAINTIFF(S)**

The failure of a *pro se* litigant to keep the court apprised of an address change may be considered cause for dismissal.

## FACTS

1. Defendants have a Constitutional obligation to accommodate special diets required for medical reasons. Prison food must be nutritionally adequate.<sup>1</sup> Prison food must be adequate to maintain health.<sup>2</sup>
2. Defendants primarily serve soy product which causes me severe constipation.
3. Joanne Sheerwood put me on medication that did not help so she removed me from the medication and placed me on a no soy diet.
4. Carizon Health staff and Michelle Young came up with the idea that if you didn't have an allergy to soy you couldn't be on the no soy diet because of the high cost of a no soy diet which is primarily Pecan Butter and Jelly, Noodles or Rice and vegetable with Corn tortillas with Applesauce. Cheaper than regular food. So they had me removed from my diet saying they would rather give me medication that doesn't work to cure the severe stomach cramps and constipation. Which they would make me pay money for.
5. This is clearly just Carizon Health and Michelle Young creating a ridiculous policy to divert them from having to pay to adequately feed inmates who require a diet. trying to divert cost from themselves and put it on myself when they are responsible for my food and medical care.
6. This has caused me to suffer with roughly 0-1 Bowel movements a week and constant cramps and pains. The medication they are giving me helps to use the Bathroom 1-2 times a week but does nothing for the severe cramps, pain, and discomfort everytime I eat the food they serve causing me to have to live off Bread and vegetables which they don't serve enough to adequately be nutritional.



3. THE WESTERN DISTRICT OF MICHIGAN IS AN APPROPRIATE VENUE UNDER TITLE 28 U.S.C. SECTION 1391(b)(2) BECAUSE IT IS WHERE THE EVENTS GIVING RISE TO THIS CLAIM OCCURRED.

C NOTES TO FACTS

1. Defendant one: facts -
2. Defendant two: facts -
3. Defendant three: facts -
4. Defendant four: facts -
5. Defendant five: facts -



FACTS

- 7 Courts stated denial of adequate food is a form of "corporal punishment"<sup>3</sup> Food that is inadequate in amount, spoiled, or otherwise unhealthy<sup>4</sup> violates the Constitution.
- 8 Joanne Sheerwood ordered a blood test to check for soy allergies then charged me for it just to find out there's no soy allergy which she knew would be the result because you can't detect constipation problems by blood.
- 9 Michelle Young's policy's for medical and medical staff namely DR Jacob and Joanne Sheerwood refuse to allow me to be adequately treated for my medical needs that I have such as denying me extra mattress, tennis shoes, and physical therapy for my chronic back problems which is documented or DR Fientue denying me my prescribed medication for A.D.H.D. and P.T.S.D. and psychotic disorder claiming Michelle Young won't authorize them because they are expensive. Since when does Health have a price tag.
- 10 IVE notified medical personell of these problems and they repeatedly say the Jail and Michelle Young won't allow it. Joanne Sheerwood has denied me not even trying to get a second mattress, and shoes. They won't even take me for a MRI Exam or test to check the back problem there excuse is everyone has back problems in Jail but I showed fresh signs of back and shoulder surgery.
11. Joanne Sheerwood Refuses to put in to have me scheduled to have my back surgery done claiming its just a lump of tissue when she don't know that. She claims the ultrasound results says its A Mass and it cant be painfull. Its my body I know its painfull she cant feel what my body feels.



12. Carizon Health, DR yacob, Joanne sheerwood and michelle youngs continuing to cause me severe pain and discomfort by denying me this medical care. Trying to make me pay for Motrin when I explained and have doctors records I was in chronic pain care prior to incarceration and was receiving ① muscle relaxers ② Anti inflammatory's ③ Stronger pain pills, ④ Back Brace ⑤ Gel inserts for my shoes and continue to deny me these things
- 13 Joanne sheerwood claims my back pain and Ankies needing support isn't a good enough reason to prescribe my shoes and a extra mattress but theres people all through the Jail that have shoes and extra mattress due to their heavy weight etc. Chronic Back pain and a shattered Ankie are more serious than being obese.
14. Its hard to walk stairs, sit or stand for long periods, Sleep efficiently etc. with back pain and discomfort.
15. Michelle youngs policy for medical charge coverage and Carizon Health Continue to Charge me for services when im property of the Michigan Dep't of Corrections who pays for their parolees/prisoners. Defendants charged me \$7<sup>00</sup> numerous times to see the nurse, \$12<sup>00</sup> to see the doctor etc and charging me \$7<sup>00</sup> a week for muscle relaxers which were denied, \$7<sup>00</sup> a week for motrin, \$7<sup>00</sup> for Anti inflammatory's, \$7<sup>00</sup> for my prostate medication, \$7<sup>00</sup> for my myrilax etc everytime its filled.
16. This has caused me physical pain, discomfort, mental suffering etc for defendants lack of treating my medical needs. when if they cant provide certain test or treatment inside the facility, then they should seek outside test or treatment. "If a prisoner requires care that is not available in the prison, the failure to obtain it elsewhere may constitute deliberate indifference." necessary outside appointments must be provided without excessive delay. Nor may they deny necessary outside consultation or treatment on grounds of cost."



FACTS

- 17 Because I lose my ability to obtain medical care when imprisoned, officers and Medical Personnel have a duty to provide care to me.<sup>8</sup> Defendants violate the Constitution when they act with deliberate indifference to mine and other inmates serious medical needs.<sup>9</sup>
- 18 A medical need is serious when it "has been diagnosed by a physician as mandating treatment or is so obvious that even a lay person would easily recognize the necessity for a doctor's attention".<sup>10</sup> A serious medical need exist when "the failure to treat a prisoners condition could result in further significant injury or the unnecessary and wanton infliction of pain".
- 19 The 8<sup>th</sup> Amendment to the Constitution gives convicted inmates the right to adequate medical care. The due process Clause of the 14<sup>th</sup> Amendment gives the same right to pretrial detainees, which Michelle Young, DR Jacob, DR Fientile and Joanne Sheerwood are denying me a pretrial detainee.
- 20 Courts have ruled serious medical needs include stomach pain and abdominal distress,<sup>12</sup> substantial back pain.<sup>13</sup>
- 21 I spoke with Joanne Sheerwood and DR Jacob about my back pain, my shoes, extra mattress, my brace, muscle relaxers, pain meds, my A.D.H.D. medication, my current P.T.S.D. medication, my dizzy spells, Blacking out, Being severely cold to the point of numbness etc and all these reports went without being addressed. They simply feel inmates wont be here very long so they can ignore problems and let the next institution of free society doctors worry about it however I been here at the time of this writing 22 months and got atleast another six months here.



22. A medical official (Joanne sheerwood) is also responsible for information he/she gets during examination of inmate<sup>14</sup>, information from review of medical records<sup>15</sup>, other doctors<sup>16</sup>, and from inmates family members<sup>17</sup>. which information about my medical needs, symptoms and problems been verbally given to Joanne sheerwood as well as some of the information in records however she over looks this information and doesn't do anything to treat the symptoms.
23. According to the supreme court prison officials violate the constitution when they intentionally deny or delay access to medical care, or intentionally interfere with prescribed treatment<sup>18</sup>. As Joanne sheerwood, DR yacob, DR flentile and michelle young have done. After hearing about a inmates serious medical need, officials may not simply do nothing<sup>19</sup> as they have done to plaintiff. An official may also be deliberately indifferent if the medical care provided is "so grossly incompetent, inadequate, or excessive as to shock the conscience or to be intolerable to fundamental fairness."<sup>20</sup> As DR yacob and Joanne sheerwood has done with plaintiff's medical needs providing medication that's inadequate to treat the symptoms.
24. Jail and prison officials may not interfere with or fail to carry out treatment that a doctor or other medical official has prescribed or ordered.<sup>21</sup> such conduct amounts to deliberate indifference. such as DR yacob and Joanne sheerwood not carrying out my primary care physicians order for physical therapy and medication. And DR flentile not carrying out the prescribed medication by my psychiatrist.
25. like previously stated due to DR yacob, Joanne sheerwood, and DR flentile's lack of response and lack of treatment plaintiff suffered unnecessary pain, discomfort, and symptoms from lack of medication and treatment. which the physical infliction of unnecessary and wanton pain has caused mental and emotional anguish.



FACTS

- 26 DR Fientje's deliberate indifference to serious mental health needs violates the 8<sup>th</sup> Amendment<sup>22</sup> or for pretrial detainees the due process clause<sup>23</sup>. Such as DR Fientje refusing to continue prescribed medication that works instead giving medication that doesn't work just because it's cheaper.
- 27 A serious mental illness is defined as one "That has caused significant disruption in an inmate's everyday life and which prevents his functioning in general population without disturbing or endangering others or himself<sup>24</sup>". Such as plaintiff seeing things that's not there, hearing voices, and holding conversations with dead son whom he sees. This has been reported to DR Fientje's Nurse with no relief given just ignored.
- 28 Mental Health staff called A.O.T. counselors met with me for 2-5 minutes once a week for the first few months of my incarceration but never got anywhere because they would always want to talk around the officers as well as in the open ground other inmates who could hear our conversation. Medical and mental health is supposed to be confidential. These counselors who worked with plaintiff have broke confidentiality by refusing to meet in confidentiality settings.
- 29 A.O.T. Counselor Caroline would laugh at me and make comments like "it's your own voice" when plaintiff would explain hearing voices which is a documented condition of his. she refused to do anything besides spin plaintiff around not addressing issues just asking "are you going to hurt yourself" This is not treating plaintiff or his symptoms.



30. It took multiple referrals and months to get actually on medication. Plaintiff finally got Caroline to stop and talk and her answer was to throw plaintiff into a Camera cell and do nothing else. Plaintiff only got that far because he went to Court that day and told the Judge the Jail wasn't treating his mental health. The Judge also had to order a psych evaluation.
31. Plaintiff and his mother requested that plaintiff meet with another Counselor than Caroline because she wasn't addressing plaintiff's needs. Plaintiff and his mother told A.O.T. that plaintiff didn't feel comfortable talking personal problems where people could hear so they stopped seeing him and told him to write when he was ready to talk.
32. Dr. Plentze refused to put plaintiff on medications that worked for him with the excuse they were hard to get and expensive. Plaintiff explained his psychs tried different medications and combinations and finally found the right dose and combination that worked and Dr. Plentze was trying to change it and experiment on plaintiff for the lack of wanting to prescribe the medications plaintiff was already taking for years because in his book they were expensive.
33. This has caused plaintiff to be up and down mentally and emotionally due to not having the right combination and medications. Also causing plaintiff irregular sleep patterns as well as inadequate amounts of sleep and Dr. Plentze said there's nothing he can do because plaintiff's on medication with high doses. Obviously it's the wrong medication.
34. Inmates have a right to be treated for the loss of dentures.<sup>25</sup> Deliberate indifference to serious dental needs is unconstitutional.<sup>26</sup> Thus the restoration or extraction of painful decayed teeth and the making of dentures for patients who need them to eat properly are serious needs.<sup>27</sup> Especially when its officers disregard for plaintiff's property that caused the loss of plaintiff's dentures he had already.



## FACTS

- 35 officers did a unit shutdown and was petty taking things such as Books, trash cans etc. Causing me to also have my dentures taken. They claim they didn't take them but no one else was in my cell. Michelle Young and Dental refuse to get me new dentures causing me to have headaches Bleeding gums, hard time eating etc.
- 36 Prison officials must provide special diets that are medically necessary.<sup>28</sup> If medical personnel order a special diet for an inmate, Jail and Prison officials must carry out the order.<sup>29</sup> Instead in plaintiff's case medical personnel had ordered a special diet but the Jail refused to carry out the order for a diet tray on grounds of Cost.
- 37 A number of decisions have disapproved the denial of physical therapy to those who require it.<sup>30</sup> In plaintiff's case DR Jacob and Joanne Sheerwood and Michelle Young's denial of physical therapy.
- 38 Plaintiff spoke with Joanne Sheerwood and DR Jacob about his need for occupational and physical therapy which plaintiff's doctor and Chronic Pain Clinic both prescribed once he healed from back and shoulder surgery.
- 39 Corizon Health, Joanne Sheerwood, DR Jacob, and Michelle Young refuse to let plaintiff have things used in physical therapy. Plaintiff even offered to use a rolled up extra towel for certain exercises, to use different size bags of water for weights etc and they said no and the officers stop him and put him on restrictions every time he tries. Plaintiff also used things in physical therapy like medicine Balls, large Rubber bands etc that they have denied.



40. This has caused plaintiff to go with constant discomfort, pain, stiffness, etc. Causing little mobility, Not being able to lay, sit or stand or work for long periods of time and DR Jacob and Joanne Sheerwood and Michelle Young even denied plaintiff his back brace that was made out of nylon and velcro.

41 Disability under the ADA means (A) a physical or mental impairment that substantially limits one or more of the major life activities of an individual. (B) a record of such impairment.

42. "Substantially limits" is defined as an impairment that substantially limits one major life activity, need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

43 The ADA Amendments Act also redefined major life activities as follows; Caring for oneself, performing manual task, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, the operation of a major bodily function such as digestive, bowel, bladder, etc.

44 As previously discussed I have chronic Back problems from two major accidents which interfere with plaintiff's ability to function fully with caring for oneself, performing manual task, sleeping, walking, standing, lifting, bending, working,

45 As previously discussed I have mental health illnesses. I have a learning disability, emotionally impaired, etc that effectively causes me to not care for myself in personal hygiene, health etc also affecting plaintiff is A.D.H.D. that limits his ability of performing manual task, sleeping, learning, reading, concentrating, thinking, communicating, working etc.



FACTS

- 46 Plaintiff has had the whole upper Right side of his shoulder, chest, Ribs broke affecting his ability to effectively perform certain manual task, lifting, working etc especially where it includes strength or lifting above chest level.
- 47 Plaintiff has problems with major bodily functions such as his bowel problems requiring to be on prescription strength Myralax daily in order to pass bowel movements. Also his requirement to be on prescription medication to effectively relax the prostate so he can freely urinate as needed.
- 48 It is clear as stated above that Plaintiff is protected under the Americans disability Act however DR Jacob, Joanne Sheerwood, DR Plentive and Michelle Young refuse to care for Plaintiff's needs.
- 49 An officer contacted Corizon Health/Medical Nurses who administer the medication to inmates and for no other reason than to harass Plaintiff had instructed to crush all Plaintiff's medication before giving it to him.
- 50 Medical/Corizon Health ordered Plaintiff's medications crushed and to be placed in cup of water then given to Plaintiff. The officer instructing to have it done as well as the nurses doing it are not doctors or psychiatrist and not certified to state how or when it's safe to administer medication to Plaintiff. They went against common sense and crushed Plaintiff's daily medications placing them in water. Some of them being 24 hour time release medication which when crushed in powder form and placed in water rapidly administers the whole dose risking Plaintiff with overdose.



- 51 This caused plaintiff to go into long periods of sleep, and to have signs of tremors, vomiting, sweating etc. This continued until plaintiff refused to take his medication like that anymore and said he was contacting a lawyer and the nurses were going to loose their license.
- 52 Carizon Health Nurses has numerous times failed to show up to bring plaintiff his medication causing emotional distress etc Resulting in the officers having to call medical for plaintiff's medication.
- 53 Carizon Health Nurses have more than once attempted to administer the wrong medication/dose to plaintiff.
- 54 Carizon Health and DR Flentje has caused mental health problems and discomfort inflicting mental and emotional injury by psychological torture and not adequately medicating/treating Plaintiff's needs etc.
55. DR Flentje, DR yacob, Joanne sheerwood and Carizon Health Nurses employed at the Kent County Jail are guilty of the wrong of negligence causing injury for committing the civil wrong involving the breach of duty to exercise reasonable care of Plaintiff's medical needs.
- 56 Carizon Health, DR yacob, Joanne sheerwood, DR Flentje and michelle young are guilty of causing injury with their reckless disregard for Plaintiff's medical/mental Health needs.
- 57 Carizon health, DR yacob, Joanne sheerwood, DR Flentje and michelle young are guilty of violating their "duty to Act" by not taking some action to prevent Plaintiff's medical harm making them liable for any harm done by lack of medical help.



FACTS

58 Carizon Health, DR yacob, Joanne sheerwood, OR Pientle and michelle young are guilty of violating their "duty to treat" by violating the health care obligation to treat a persons injury or illness by not giving plaintiff prescription and needed medication as well as other items to help ease symptoms and control pain levels such as Back brace etc



NOTES TO FACTS

1. *Ramos v. Lamm*, 639 F.2d 559, 570 (10<sup>th</sup> Cir. 1980)
2. *Keenan v. Hall*, 83 F.3d at 1091
3. *Cooper v. Sheriff, Lubbock County, Texas*, 929 F.2d 1078, 1083-84 (5<sup>th</sup> Cir. 1981)
4. *Nicholson v. Choctaw County*, 498 F.Supp. 295, 313 (S.D. Ala. 1980)
5. *Kaminsky v. Rosenblum*, 929 F.2d 922, 927 (2d Cir. 1991); *Morales Feliciano v. Calderon Sierra*, 300 F.Supp. 2d 321, 341 (D.P.R. 2004) ("The failure to provide transportation to scheduled specialty appointments and other therapy" is an example of "interfering with treatment once prescribed" forbidden by the 8<sup>th</sup> Amendment)
6. *Morales feliciano v. Rossello Gonzalez*, 13 F.Supp. 2d 151, 211 (D.P.R. 1998); *Casey v. Lewis*, 834 F.Supp. 1477, 1546 (D. Ariz. 1993)
7. *Manmouth County Correctional Institution inmates v. Lanzaro*, 834 F.2d 326, 336-37, 347 (3d Cir. 1987); *Ancata v. Prison Health Services Inc.*, 769 F.2d 700, 704 (11<sup>th</sup> Cir. 1985)
8. *Deshaney v. Winnebago County Dep't of Social Servs*, 489 U.S. 189, 199-200, 109 S.Ct. 998 (1989); *Estelle v. Gamble*, 429 U.S. 97, 104, 97 S.Ct. 285 (1976) ("it is but just that the public be required to care for the prisoner who cannot by reason of the deprivation of his liberty care for himself." (citations omitted))
9. *Estelle v. Gamble*, 429 U.S. 97, 97 S.Ct. 285 (1976)
10. *Mahan v. Plymouth County House of Corrections*, 64 F.3d 14, 18 (1<sup>st</sup> Cir. 1995); *Kosilek v. Maloney*, 221 F.Supp. 2d 156, 181 (D. Mass. 2002); *Manmouth County Correctional Institution inmates v. Lanzaro*, 834 F.2d 326, 347 (3d Cir. 1987)
11. *Harrison v. Barkley*, 219 F.3d 132, 136 (2d Cir. 2000); *McGuickin v. Smith*, 974 F.2d 1050, 1059 (9<sup>th</sup> Cir. 1992)
12. *Westlake v. Lucas*, 537 F.2d 857, 860-61 (6<sup>th</sup> Cir. 1976)
13. *Logan v. Clarke*, 119 F.3d 647, 649 (8<sup>th</sup> Cir. 1997)



14. *Green v. Branson*, 108 F.3d 1296, 1303 (10<sup>th</sup> Cir. 1997) (prison doctor was responsible for clear injuries); *McElligot v. Foley*, 182 F.3d 1248, 1256 (11<sup>th</sup> Cir. 1999) (inmate's nearly constant pain he was having was sufficient to put doctor and nurse on notice of substantial risk)
15. *Tramka v. Serrell*, 244 F.3d 628, 633 (8<sup>th</sup> Cir. 2001); *Coleman v. Rahija*, 114 F.3d 778, 786 (8<sup>th</sup> Cir. 1997)
16. *Gresson v. Kemp*, 891 F.2d 829, 831-32 (11<sup>th</sup> Cir. 1990)
17. *Lancaster v. Monroe County*, 116 F.3d at 1426-27; *Gresson v. Kemp*, 891 F.2d at 832-33
18. *Estelle v. Gamble*, 429 U.S. at 104-05
19. *Kersh v. DeRozier*, 857 F.2d 1509, 1510 (5<sup>th</sup> Cir. 1988); *Murphy v. Welker*, 51 F.3d 714, 719 (7<sup>th</sup> Cir. 1995)
20. *Rogers v. Evans*, 792 F.2d 1052, 1058 (11<sup>th</sup> Cir. 1986)
21. *Board v. Farnham*, 394 F.3d 469, 484 (7<sup>th</sup> Cir. 2005); *Johnson v. Lockhart*, 941 F.2d 705, 706-07 (8<sup>th</sup> Cir. 1991); *Gill v. Mooney*, 824 F.2d 192, 195-96 (2d Cir. 1987); *Washington v. Dwyer*, 860 F.2d 1018, 1021 (11<sup>th</sup> Cir. 1988)
22. *Gates v. Cook*, 376 F.3d 323, 343 (5<sup>th</sup> Cir. 2004); *Dolphite v. Maughon* by and through videon, 74 F.3d 1027, 1042-43 (11<sup>th</sup> Cir. 1996); *Smith v. Jenkins*, 919 F.2d 90, 92-93 (8<sup>th</sup> Cir. 1990)
23. *Gibson v. County of Washoe, Nev.*, 290 F.3d 1175, 1187 (9<sup>th</sup> Cir. 2002); *Lawson v. Trowbridge*, 153 F.3d 368, 378 (7<sup>th</sup> Cir. 1998)
24. *Trillery v. Owens*, 719 F.Supp. 1256, 1286 (W.D. Pa. 1989) aff'd 907 F.2d 418 (3d Cir. 1990)
25. *Wynn v. Southward*, 251 F.3d 588, 593 (7<sup>th</sup> Cir. 2001) (denial of dentures resulting in eating difficulty, bleeding, headaches, and disfigurement was serious medical need); *Hunt v. Dental Dep't*, 865 F.2d 198, 201 (9<sup>th</sup> Cir. 1989)
26. *Board v. Farnham*, 394 F.3d 469, 481-82 (7<sup>th</sup> Cir. 2005); *Wynn v. Southward*, 251 F.3d 588, 593 (7<sup>th</sup> Cir. 2001)
27. *Dean*, 623 F.Supp. at 404; see *Hartsfield v. Colburn*, 371 F.3d 454, 457 (8<sup>th</sup> Cir. 2004)



NOTES TO FACTS

- 28 Sellers v. Henman, 41 F.3d 1100, 1102 (7<sup>th</sup> Cir. 1994); Mercedes Feliciano v. Calderon Sierra, 300 F.Supp. 2d 321, 341 (D.P.R. 2004) (failure to provide prescribed diets implicates 8<sup>th</sup> Amendment Rights)
- 29 Riddick v. Bass, 586 F.Supp. 881, 883 (E.D. Va. 1984); Balla v. Idaho State Bd. of Corrections, 595 F.Supp. 1558, 1574-75 (D. Idaho 1984)
- 30 Miller v. King, 384 F.3d at 1261-62; Hicks v. Frey, 992 F.2d 1450, 1456-57 (6<sup>th</sup> Cir 1993)



D. LEGAL CLAIMS

1. Prisoners are not stripped of Constitutional protections at the prison gates, retaining all those rights an ordinary citizen enjoys, except those taken expressly by law, or by necessary implication and not inconsistent with penal objectives.  
Bell v. Wolfish, 441 U.S. 520, 99 S.Ct. 1800, 60 L.Ed.2d 447 (1979)
2. Exercise is one of the basic human needs protected by the 8<sup>th</sup> Amendment  
Lemare v. Mass, 12 F.3d 851 (9<sup>th</sup> Cir. 1993)
3. Psychological pain can violate the 8<sup>th</sup> Amendment  
Perkins v. Kansas Dep't of Corr., 165 F.3d 803 (10<sup>th</sup> Cir. 1999)
4. Nutritionally adequate food must be provided for prisoners.  
Truitt v. Williams, 965 F.3d 1210 (10<sup>th</sup> Cir. 2006)
5. Prison nurse not entitled to qualified immunity when denying prisoner prescribed treatment because such compliance was not discretionary but ministerial.  
Borek v. Wiscomb, 930 F.2d 1150 (6<sup>th</sup> Cir. 1991)
6. No qualified immunity for those who willingly violate the law  
Teller v. Fields, 280 F.3d 69 (2d Cir. 2001)
7. Prisoners are entitled to medical care provided by the government as a fundamental principle under the 8<sup>th</sup> Amendment's Cruel and Unusual Punishment Clause.  
Estelle v. Gumble, 429 U.S. 97, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976)
8. Prisoners are entitled to necessary mental health treatment.  
Ramos v. Lamm, 639 F.2d 559 (10<sup>th</sup> Cir. 1980)



9. Just as a "serious medical need" may exist for a physical condition, so may a "serious medical need" exist for a psychological or psychiatric treatment.  
Domino v. Texas Dep't of Criminal Justice, 239 F.3d 752 (5<sup>th</sup> Cir. 2001)
10. Employees of private medical company acted under color of state law for Purpose of §1983  
Walker v. Horn, 385 F.3d 321 (3<sup>d</sup> Cir. 2004)
11. Prisoners are entitled to treatment by medical specialist  
Feeney v. Corr. Med. Servs., Inc., 464 F.3d 158 (1<sup>st</sup> Cir. 2006)
12. Under the 8<sup>th</sup> Amendment states have an affirmative duty to provide medical care to prisoners.  
Dickworth v. Ahmad, 532 F.3d 675 (7<sup>th</sup> Cir. 2008)
13. DR Jacob, Joanne Sheerwood, DR Fientde, Carizon Health, and Michelle Young are and have been denying plaintiff adequate medical/mental health treatment. Denying him needed medication, treatment, and necessary appointments and treatment by a specialist. Denying plaintiff medically needed diet meals. Claiming cost of food however they feed the kitchen trustees diet food just because their workers.
14. Carizon Health, DR Jacob, Joanne Sheerwood, DR Fientde, and Michelle Young are guilty of inhumane treatment, cruel and unusual treatment/punishment, violations to plaintiff's medical rights etc.



### E. PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF RESPECTFULLY PRAYS THAT THIS COURT ENTER JUDGEMENT FOR PLAINTIFF.

1. Granting plaintiff a declaration that the acts and commissions described herein violate his rights under the Constitution and laws of the United States as well as Tort law
2. Granting plaintiff Compensatory damages in the amount of \$50,000.00 against each defendant jointly and severally
3. Granting plaintiff punitive damages in the amount of \$50,000.00 against each defendant jointly and severally
4. Plaintiff seeks Jury trial on this claim and all issues triable by Jury
5. Plaintiff also seeks recovery of cost of this suit
6. Any Additional Relief this Court deems Just, proper, and equitable



DATED: MAY 16 2020

Respectfully submitted

Brian Keith Schwab

#1814167

703 Bell ave NE

Grand Rapids, MI 49503

F. VERIFICATION

I have read the foregoing Complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify, under penalty of perjury that the foregoing is true and correct.

EXECUTED AT: GRAND RAPIDS MI, on MAY 16 2020

Brian Schwab



Brian Schwab #1814167  
703 Ball Ave NE  
Grand Rapids MI 49503



This mail originates  
from the  
Kent County Correctional Facility

UNITED STATES DISTRICT COURT  
399 Federal Building  
110 Michigan ST. NW  
Grand Rapids MI 49503